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BRONWYN L. ROBERTS
DIRECT DIAL: 617.289.9218
E-MAIL: blroberts@duanemorris.com

www.duanemorris.com

July 19, 2005

Mr. Begashaw Ayele
261 O'Callaghan Way #816
South Boston, MA 02127

Re: Ayele v. Cognisa Security Company, Inc.
Civil Action No.: 04CV12217-PBS

Dear Mr. Ayele:

Enclosed for your files please find the following document which was filed with the court:

1. Defendant's Opposition to Plaintiff's "Motion for Compelling Discovery Served On A Third Party."

If you should have any questions, please do not hesitate to contact me.

Very truly yours,


Bronwyn L. Roberts

BLR/abl
Enclosure

cc: John Quintal (w/enclosure)

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BEGASHAW AYELE,

Plaintiff,

v.

COGNISA SECURITY COMPANY, INC.,

Defendant.

Civil Action No.: 04CV12217-PBS

**DEFENDANT'S OPPOSITION TO PLAINTIFF'S "MOTION FOR COMPELLING
DISCOVERY SERVED ON A THIRD PARTY"**

Defendant Cognisa Security Company, Inc. ("Cognisa") hereby opposes Plaintiff's Motion For Compelling Discovery Served On Third Party ("Plaintiff's Motion to Compel") for the following reasons:

1. Plaintiff failed to notify counsel for Cognisa that he served the Subpoena on Compliance Network and the Amended Subpoena on John Quintal. Rather, the first time counsel for Cognisa received a copy of the Subpoena was on July 8, 2005 via the Court's electronic filing notice, and the first time counsel for Cognisa received a copy of the Amended Subpoena was on July 12, 2005 via the Court's electronic filing notice. Pursuant to Fed. Rules Civ. Proc. 5, "every order required by its terms to be served, every pleading subsequent to the original complaint ..., every paper relating to discovery to be served on a party ..., every written notice, ... and similar paper shall be served upon each of the parties." Because notice was never given to counsel for Cognisa, Plaintiff's Subpoena and Amended Subpoena are in violation of

that rule, of no legal effect, should be quashed and neither Compliance Network nor John Quintal should be compelled to respond to them.

2. The period for taking discovery in this case closed on May 31, 2005. Although the Court (Bowler, M.J.) did extend discovery on a limited basis "until August 5, 2005, for the sole purpose of taking the depositions of Nicole Downs, Aaron Field, Gary Feldman and George Cintrol" this extension does not permit Plaintiff to subpoena documents from Compliance Network or John Quintal, contrary to Plaintiff's false assertion in the first sentence of Plaintiff's Motion To Compel.

3. Both the Subpoena and the Amended Subpoena seek drug test records for many individuals never identified by Plaintiff in his automatic discovery disclosures, answers to interrogatories, or deposition testimony as individuals with knowledge of the facts of this case. Specifically, Plaintiff has never identified any of the following individuals as comparators in this failure to hire case or as persons with knowledge of the facts of this case: Jeffrey Carter, Kenneth Tucker, Alex Lambert, Nicole Socolove, Jorge Centron, James Sarpee, Steven Haskel, Kaleta Iewoldeberhay, Lea Dahn, O. Agabi, M. Elvern. The only individual whose records are requested who were previously identified by Plaintiff is himself.¹ Accordingly, the documents sought by Plaintiff are irrelevant to this action. Moreover, Plaintiff has failed to state why the requested documents are relevant to this action.

¹ On July 15, 2005, after the Subpoena and Amended Subpoena were served on Compliance Network and John Quintal, Plaintiff identified Jorge L. Cintron as a witness with "knowledge about cognisa's [sic] employment police [sic] and/or practice." (See letter from Mr. Ayele dated July 15, 2005, attached hereto as Exhibit A). Plaintiff has not indicated specifically what knowledge Mr. Cintron has or why his drug testing records are relevant to this failure to hire case.

WHEREFORE, Cognisa opposes Plaintiff's Motion To Compel, and respectfully requests that both the Subpoena to Compliance Network and the Amended Subpoena to John Quintal be quashed, that Plaintiff be ordered to serve notice of all Subpoenas to third parties, and that Cognisa be awarded its reasonable attorneys' fees for filing this opposition.

Respectfully submitted,

COGNISA SECURITY, INC.

By its attorneys

/s/ Bronwyn L. Roberts

Bronwyn L. Roberts, BBO# 638079

DUANE MORRIS LLP

470 Atlantic Avenue, Suite 500

Boston, MA 02210

(617) 289-9200

and Co-Counsel

(admitted *pro hac vice*)

Terry P. Finnerty

Georgia Bar No. 261561

Peter B. Murphy

Georgia Bar No. 531032

Duane Morris LLP

1180 West Peachtree Street, Suite 700

Atlanta, GA 30309

(404) 253-6900

Dated: July 19, 2005

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BEGASHAW AYELE,

Plaintiff,

v.

COGNISA SECURITY COMPANY, INC.,

Defendant.

Civil Action No.: 04CV12217-PBS

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of July, 2005, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system. I further certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participant:

Begashaw Ayele
261 O'Callaghan Way #816
South Boston, MA 02127

John Quintal, President
Compliance Network of New England
15 Court Square, LL 1
Boston, MA 02108

John Quintal
169 So. River Road #14
Bedford, NH 03110

/s/ Bronwyn L. Roberts
Bronwyn L. Roberts, BBO# 638079

DUANE MORRIS LLP
470 Atlantic Avenue, Suite 500
Boston, MA 02210
(617) 289-9200
Email: bbroberts@duanemorris.com

EXHIBIT A

BY HAND DELIVERY

Bronwyn L. Roberts
DUANE MORRIS
470 Atlantic Avenue #500
Boston,, MA 02210

July 15, 2005

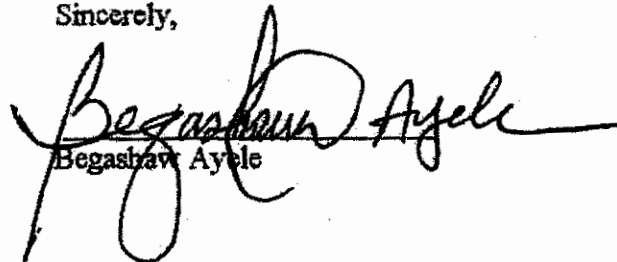
Re: Discovery Response per Order of the court of June 28, 2005
Begashaw Ayele vs. Cognisa Security Inc. Case No.04-12217PBS

Dear Ms. Roberts,

Per order of the court of June 28, 2005, please find the name of two witness who may have knowledge about cognisa's employment police and/or practice:

1. Cintro Jorge L. current employee of Cognisa. Home and work address unknown and only the employer has such information.
2. Garry Feldman current employee of Allied Barton Security Co. Inc. which is located at 8 Whittier Place, Boston Massachusetts. Mr. Feldman work phone no. is (617) 367-4867 and works between 11:00am to 7:00am (The above generally answer defendant's motion for compelling discovery as categorically stated by the Judge Bowler as A, B and C but not D)
3. Dr. Aweke Alemayehu moved to Canada and is unable to know his whereabouts but will try to find out and will supply his address or contact number.
4. All other people identified by plaintiff's initial disclosure include Nicole Downes, Aaron Feo and Jennifer Rego whom Defendant do know their address and contact address

Sincerely,


Begashaw Ayele